

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	*	Docket Number:
	*	1:20-cr-00123-JLS-HKS-1
	*	
	*	Buffalo, New York
v.	*	June 30, 2023
	*	1:00 p.m.
	*	
RAMINDERJIT ASSI,	*	PLEA HEARING
	*	
Defendant (1).	*	
	*	
* * * * *	*	

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:	TRINI E. ROSS, UNITED STATES ATTORNEY, By MICHAEL J. ADLER, ESQ., Assistant United States Attorney, Federal Centre, 138 Delaware Avenue, Buffalo, New York 14202, Appearing for the United States.
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For the Defendant 1:	SINGER LEGAL, PLLC., By ROBERT C. SINGER, ESQ., 80 East Spring Street, Williamsville, New York 14221.
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The Courtroom Deputy:	JANE KELLOGG
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1 The Court Reporter: BONNIE S. WEBER, RPR,
2 Notary Public,
3 Robert H. Jackson Courthouse,
4 2 Niagara Square,
5 Buffalo, New York 14202,
6 Bonnie_Weber@nywd.uscourts.gov.

7
8 Proceedings recorded by mechanical stenography,
9 transcript produced by computer.

10 (Proceedings commenced at 1:00 p.m.)

11 **THE CLERK:** All rise.

12 The United States District Court for the Western
13 District of New York is now in session. The Honorable John
14 Sinatra presiding.

15 **THE COURT:** Please be seated.

16 **THE CLERK:** The Court advises parties and listeners
17 that they are strictly prohibited from recording these
18 proceedings in whole or in part by any device.

19 United States versus Raminderjit Assi, Docket Number
20 20-CR-123. This is the date set for a plea hearing.

21 Counsel, please state your appearances before the
22 record.

23 **MR. ADLER:** Michael Adler for the United States, Your
24 Honor.

25 **MR. SINGER:** And good afternoon, Judge. Robert Singer
on behalf of Mr. Assi, who is present.

1 **THE COURT:** Good afternoon, Counsel. Good afternoon,
2 Mr. Assi.

3 Mr. Singer, I understand that your client is here to
4 enter a guilty plea pursuant to the plea agreement presented and
5 signed today; is that correct?

6 **MR. SINGER:** That's correct, Your Honor.

7 **THE COURT:** Mr. Adler, there are some revisions,
8 paragraph 4E, regarding the factual basis. Also, the applicable
9 term of supervised release under the guidelines, and to the
10 elements of the crime in paragraph three.

11 Have there been any other changes to the initial draft
12 agreement provided on June 23?

13 **MR. ADLER:** I don't recall if the original plea that
14 was provided to the Court had a forfeiture section, but that is
15 no longer in this plea, if it did.

16 **THE COURT:** No forfeiture section in this plea?

17 **MR. ADLER:** That's correct.

18 **THE COURT:** Okay. All right. The signed plea
19 agreement will be incorporated into and made a part of this
20 proceeding.

21 Are there any victims, Mr. Adler?

22 **MR. ADLER:** No, Your Honor.

23 **THE COURT:** Mr. Assi, before I accept your guilty
24 plea, I want to be sure that you are fully informed of your
25 rights, that you understand those rights, and that you

1 understand the nature of this proceeding today and the
2 consequences of pleading guilty.

3 If you don't understand something that I say or a
4 question that I ask, tell me, I'll try to make it clearer. And
5 if you need time to speak with your lawyer, say that and I'll
6 accommodate that as well, okay?

7 **THE DEFENDANT:** Yes, Your Honor.

8 **THE COURT:** Okay. Would you please stand and raise
9 your right hand to take the oath.

10 Ms. Kellogg --

11

12 **RAMINDERJIT ASSI**, having first been duly sworn, testified as
13 follows:

14

15 **THE DEFENDANT:** Yes, I do.

16 **THE COURT:** Okay. Please be seated.

17 Mr. Assi, do you speak, read and understand English?

18 **THE DEFENDANT:** Yes, I do.

19 **THE COURT:** You just took an oath that you would
20 answer my questions truthfully.

21 If you say something that is not true, that statement
22 may be used against you later in a separate criminal
23 prosecution, such as for perjury or for making a false
24 statement, or it may result in other consequences from this
25 Court.

1 Do you understand that?

2 **THE DEFENDANT:** Yes, Your Honor.

3 **THE COURT:** Do you understand that you have the right
4 to remain silent and not to answer any of my questions?

5 **THE DEFENDANT:** Yes, I do.

6 **THE COURT:** Do you want to answer my questions and
7 give up that, right?

8 **THE DEFENDANT:** Yes, I do.

9 **THE COURT:** Mr. Singer, do you join in that?

10 **MR. SINGER:** I do, Your Honor, yes.

11 **THE COURT:** Mr. Assi, what's your full name?

12 **THE DEFENDANT:** Raminderjit Assi.

13 **THE COURT:** And where were you born?

14 **THE DEFENDANT:** Hamilton, Ontario.

15 **THE COURT:** When were you born?

16 **THE DEFENDANT:** April 29th, 1995.

17 **THE COURT:** Okay. How old does that make you?

18 **THE DEFENDANT:** 28.

19 **THE COURT:** Are you married?

20 **THE DEFENDANT:** No.

21 **THE COURT:** Do you have any children?

22 **THE DEFENDANT:** No.

23 **THE COURT:** How far along in school did you go?

24 **THE DEFENDANT:** I finished my high school.

25 **THE COURT:** Okay. You are able to read?

1 **THE DEFENDANT:** Yes.

2 **THE COURT:** Were you able to read the plea agreement
3 that you signed in full on your own, before you signed it?

4 **THE DEFENDANT:** Yes, I did.

5 **THE COURT:** What is your citizenship?

6 **THE DEFENDANT:** Canadian.

7 **THE COURT:** And what was your most recent employment?

8 **THE DEFENDANT:** Construction.

9 **THE COURT:** Are you currently seeing a doctor for any
10 physical or mental health condition that could affect your
11 ability to read, communicate, make decisions or understand these
12 proceedings?

13 **THE DEFENDANT:** No, I am not.

14 **THE COURT:** Do you have any mental condition or
15 disability that would prevent you from fully understanding the
16 charges against you or the consequences of your guilty plea?

17 **THE DEFENDANT:** No, Your Honor.

18 **THE COURT:** Have you recently been treated for a
19 mental illness or addiction to narcotics?

20 **THE DEFENDANT:** No to drugs. And I've been speaking
21 with mental health.

22 **THE COURT:** Is there anything about what brought you
23 to that mental health counselling or anything about that
24 counselling that affects your judgment?

25 **THE DEFENDANT:** No.

1 **THE COURT:** Is there anything about any of that that
2 affects your ability to understand what you are doing here
3 today?

4 **THE DEFENDANT:** No, it doesn't.

5 **THE COURT:** Are you currently under the influence of
6 any drug, medication or alcohol?

7 **THE DEFENDANT:** No, Your Honor.

8 **THE COURT:** Is there any medication that your doctor
9 wants you to take that you're not taking?

10 **THE DEFENDANT:** No.

11 **THE COURT:** Is there any reason we should not proceed
12 with this change of plea hearing today?

13 **THE DEFENDANT:** No.

14 **THE COURT:** Okay. Mr. Singer, did you speak with
15 Mr. Assi about this proceeding today?

16 **MR. SINGER:** Yes, I did, Your Honor.

17 **THE COURT:** Do you have any reason to believe that he
18 should not proceed with this plea today?

19 **MR. SINGER:** I do not.

20 **THE COURT:** And do you believe he is competent to
21 proceed?

22 **MR. SINGER:** I do, Your Honor.

23 **THE COURT:** Did you share with him all formal plea
24 offers by the Government?

25 **MR. SINGER:** I did, Your Honor.

1 **THE COURT:** Mr. Assi, did you speak with your lawyer
2 about the charge against you, your rights, the proposed plea
3 agreement and your options?

4 **THE DEFENDANT:** Yes, I did.

5 **THE COURT:** Are you satisfied with the advice and
6 counsel you've received from Mr. Singer?

7 **THE DEFENDANT:** Yes.

8 **THE COURT:** Based on the statements of Mr. Assi and
9 his counsel and my observations, I find that Mr. Assi is in full
10 possession of his faculties and competent to proceed.

11 Next, the Due Process Protections Act and Federal Rule
12 of Criminal Procedure 5F1 require me to direct the prosecution
13 to comply with its obligations under Brady and its progeny to
14 disclose to the defense all information, admissible or not, that
15 is favorable to the defendant, material either to guilt or
16 punishment and known to the prosecution.

17 Possible consequences for noncompliance may include
18 dismissal of individual charges or the entire case, exclusion of
19 evidence and professional discipline or court sanctions on the
20 attorneys responsible.

21 I'm going to enter that order now that more fully
22 describes the allegation and possible consequences, and I will
23 direct the prosecution to comply with it.

24 **MR. ADLER:** Yes, Your Honor.

25 **THE COURT:** In the meantime, Mr. Adler, do you confirm

1 that the Government has complied with the requirements of this
2 order up until now?

3 **MR. ADLER:** Yes, Your Honor.

4 **THE COURT:** Next, Mr. Assi, did you receive a copy of
5 the indictment, which is the written statement of the charges
6 against you?

7 **THE DEFENDANT:** Yes, I did.

8 **THE COURT:** In Count Four of that indictment, the
9 grand jury charges you with importation of marijuana into the
10 United States.

11 You have several Constitutional rights that you will
12 be giving up if you plead guilty to this Count Four, and I'll
13 discuss those with you now.

14 You have the right to plead not guilty to any offense
15 charged against you and to persist in that plea throughout the
16 process. In fact, earlier in the case you entered a plea of not
17 guilty to all charges.

18 You have the right to continue and persist in that
19 plea. You have the right to a speedy and public trial.

20 You have the right to a jury trial, and at that trial
21 you would have the right to participate in selecting the jury
22 from members of the community.

23 At trial, you will be presumed innocent and the
24 Government would have to prove your guilt by proving each
25 element of this charge beyond a reasonable doubt.

1 The jury would have to be unanimous. In particular,
2 the jurors would have to reach a unanimous verdict on this Count
3 Four to convict you of importation of marijuana into the United
4 States.

5 If both you and the Government gave up the right to a
6 jury trial, you would have the right to be tried by the Court,
7 and that means by me.

8 You have the right to be represented by counsel and to
9 have your lawyer assist with your defense. You have that right
10 at trial and at every other stage of the proceedings against
11 you, including any appeal.

12 If you can't afford a lawyer, the Court will appoint
13 one for you free of charge to assist you at trial and at every
14 other stage of the proceedings.

15 At trial, you have the right to confront and
16 cross-examine the witnesses against you. And that means you
17 have the right to see the witnesses, hear them testify and have
18 them questioned by your lawyer.

19 You have the right to present a defense at trial,
20 including the right to testify on your own behalf, present
21 evidence, call witnesses to testify, and have witnesses
22 subpoenaed and required to come to court to testify on your
23 behalf.

24 You also have the right to be protected from compelled
25 self-incrimination, and that means you have the right to remain

1 silent and not to testify at trial.

2 No one can force you to testify or to incrimination
3 yourself. If you plead guilty, you give up the right to be
4 protected from compelled self-incrimination and you will be
5 incriminating yourself.

6 If you went to trial and were convicted, you would
7 have the right to appeal your conviction and your sentence.

8 If you plead guilty and if I accept your guilty plea,
9 you will waive each of these rights. In particular, if you
10 plead guilty, you agree that this is your day in Court and there
11 will be no trial.

12 Pleading guilty will have the same effect to you as if
13 you went to trial and the jurors reached a unanimous guilty
14 verdict as to this charge.

15 By pleading guilty, you waive all of these rights,
16 including your right to appeal, except for a very limited right
17 to appeal your sentence, and we'll talk about that later.

18 Do you understand all of that?

19 **THE DEFENDANT:** Yes, Your Honor.

20 **THE COURT:** Did your lawyer advise you of all the
21 rights I just described?

22 **THE DEFENDANT:** Yes, he did.

23 **THE COURT:** Do you understand those rights?

24 **THE DEFENDANT:** Yes, I do.

25 **THE COURT:** Do you have any questions about any of

1 them?

2 **THE DEFENDANT:** No, Your Honor.

3 **THE COURT:** Do you need more time to talk to your
4 lawyer about your rights?

5 **THE DEFENDANT:** No, I don't.

6 **THE COURT:** Do you want to give up those rights?

7 **THE DEFENDANT:** Yes, I do.

8 **THE COURT:** Mr. Singer, are you satisfied that your
9 client is waiving these rights knowingly, voluntarily and
10 intelligently?

11 **MR. SINGER:** I am.

12 **THE COURT:** Do you join and agree with each waiver?

13 **MR. SINGER:** I do.

14 **THE COURT:** Okay. On to the plea agreement.

15 Mr. Assi, did you sign this plea agreement, I believe
16 on page nine?

17 **THE DEFENDANT:** Yes, Your Honor.

18 **THE COURT:** Did you read it before you signed it?

19 **THE DEFENDANT:** Yes, I did.

20 **THE COURT:** Did you discuss the plea agreement with
21 your lawyer before you signed it?

22 **THE DEFENDANT:** Yes, I did.

23 **THE COURT:** Do you understand everything in this
24 agreement?

25 **THE DEFENDANT:** Yes, Your Honor.

1 **THE COURT:** Do you agree with everything in it?

2 **THE DEFENDANT:** Yes.

3 **THE COURT:** Do you have any questions about this
4 agreement?

5 **THE DEFENDANT:** No, Your Honor.

6 **THE COURT:** Do you need more time to discuss it with
7 your lawyer?

8 **THE DEFENDANT:** No, Your Honor.

9 **THE COURT:** Do you understand that I am not a party to
10 this agreement, and that means I'm not bound by its terms?

11 **THE DEFENDANT:** Yes, I do.

12 **THE COURT:** Other than what's contained on the pages
13 of the written plea agreement that you signed, did anyone make
14 any promises, representations or guarantees to you to try to get
15 you to plead guilty?

16 **THE DEFENDANT:** No, Your Honor.

17 **THE COURT:** Other than what's contained in the written
18 plea agreement that you signed, and other than a general
19 discussion of the sentencing guidelines and other sentencing
20 considerations with your lawyer -- other than all of that, did
21 anyone promise you leniency or a particular sentence or any
22 other incentive to get you to plead guilty?

23 **THE DEFENDANT:** No, Your Honor.

24 **THE COURT:** Is anyone forcing you to plead guilty?

25 **MR. SINGER:** Just one moment, Judge.

1 Can you repeat that last question, Judge? I'm sorry.

2 **THE COURT:** Other than what's contained in the written
3 plea agreement that you signed, and other than a general
4 discussion of the sentencing guidelines and other sentencing
5 considerations with your lawyer, other than all of those things,
6 did anyone promise you leniency or a particular sentence or any
7 other incentive to get you to plead guilty?

8 **THE DEFENDANT:** Yes, Your Honor.

9 **THE COURT:** Did anyone promise you leniency, a
10 particular sentence or any other incentive to get you to plead
11 guilty, other than the things that I just told you?

12 **THE DEFENDANT:** No, Your Honor.

13 **THE COURT:** Okay. Is anyone forcing you to plead
14 guilty?

15 **THE DEFENDANT:** No.

16 **THE COURT:** Did anyone try to threaten you, someone in
17 your family or someone close to you to get you to plead guilty?

18 **THE DEFENDANT:** No, Your Honor.

19 **THE COURT:** Whether to plead guilty is your decision,
20 not your lawyer's.

21 You should do what you want to do, not what you think
22 your lawyer wants you to do and not what you think anyone else
23 wants you to do.

24 Do you understand that?

25 **THE DEFENDANT:** Yes, I do.

1 **THE COURT:** Is your decision to plead guilty voluntary
2 and of your own free will?

3 **THE DEFENDANT:** Yes.

4 **THE COURT:** You are agreeing to plead guilty to one of
5 the charges against you, that is Count Four of the indictment.

6 Again, that alleges that you knowingly, intentionally
7 and unlawfully imported marijuana into the United States in
8 violation of 21 United States Code 952(a), 960(a)(1) and
9 960(b)(4).

10 The Government would have to prove the following
11 elements beyond a reasonable doubt if the case were to go to
12 trial.

13 First, that you intentionally brought a controlled
14 substance into the United States from someplace outside of the
15 United States, as charged in the indictment.

16 Second, that you knew that the substance being
17 imported was a controlled substance.

18 And, third, that you knew you were importing the
19 controlled substance into the United States.

20 Do you understand the nature of this charge?

21 **THE DEFENDANT:** Yes, I do.

22 **THE COURT:** And do you understand the elements of the
23 charge that I just explained?

24 **THE DEFENDANT:** Yes, Your Honor.

25 **THE COURT:** Did you discuss the charge and its

1 elements with your lawyer?

2 **THE DEFENDANT:** Yes, I did.

3 **THE COURT:** Do you have any questions about the charge
4 or its elements?

5 **THE DEFENDANT:** No, Your Honor.

6 **THE COURT:** Were you advised of the maximum penalties
7 for this charge?

8 **THE DEFENDANT:** Yes, I was.

9 **THE COURT:** On page one in paragraph one of your
10 agreement, you'll see that the maximum possible sentence is a
11 term of imprisonment of five years and a fine of \$250,000, as
12 well as a term of supervised release of at least two years.
13 Also, there is a \$100 mandatory special assessment.

14 Do you understand these maximum penalties?

15 **THE DEFENDANT:** Yes, I do.

16 **THE COURT:** Supervised release is a form of post
17 imprisonment supervision. It does not replace a portion of the
18 sentence of imprisonment.

19 Instead, it's an order of supervision in addition to
20 any term of imprisonment that I may impose.

21 During any term of supervised release, you must comply
22 with certain terms and conditions that I set and that the
23 probation office sets with my approval.

24 Do you understand that?

25 **THE DEFENDANT:** Yes, Your Honor.

1 **THE COURT:** If you are placed on supervised release,
2 and if I find by a preponderance of the evidence that you
3 violated a condition of that release, you may be returned to
4 prison for all or part of the term of supervised release, up to
5 one year without credit for time previously served on supervised
6 release.

7 Do you understand that?

8 **THE DEFENDANT:** Yes, I do.

9 **THE COURT:** If you violate a condition of supervised
10 release, you could end up serving more time in prison than set
11 forth in the statutory maximum.

12 Do you understand that?

13 **THE DEFENDANT:** Yes, Your Honor.

14 **THE COURT:** I don't know if you are currently on
15 parole, probation or supervised release in some other criminal
16 case.

17 If you are, today's guilty plea may provide a basis
18 for revoking that parole, probation or supervised release. As a
19 result, you may be returned to prison on that other case, if
20 there is one.

21 Do you understand that?

22 **THE DEFENDANT:** Yes, I do.

23 **THE COURT:** Parole no longer exists in the Federal
24 system. So if you are sent to prison, you will not be released
25 on parole.

1 Do you understand that?

2 **THE DEFENDANT:** Yes, I do.

3 **THE COURT:** You are pleading guilty to a felony, and
4 that might result in the loss of valuable civil rights. For
5 example, the rights to vote, to hold public office, to serve on
6 a jury, and to possess a firearm.

7 Do you understand that?

8 **THE DEFENDANT:** Yes, I do.

9 **THE COURT:** Did you discuss with your attorney the
10 possible immigration consequences if you plead guilty?

11 **THE DEFENDANT:** Yes, I did.

12 **THE COURT:** If I accept your guilty plea, you may be
13 removed from the United States.

14 Do you understand?

15 **THE DEFENDANT:** Yes, Your Honor.

16 **THE COURT:** You also may be denied United States
17 citizenship in the future and denied admission to the United
18 States in the future if you plead guilty.

19 Do you understand that?

20 **THE DEFENDANT:** Yes, Your Honor.

21 **THE COURT:** Do you understand that your ability to
22 enter or remain or reside in the United States is subject to the
23 laws of the United States and the regulations and policies of
24 the Department of Homeland Security?

25 Do you understand that?

1 **THE DEFENDANT:** Yes, Your Honor.

2 **THE COURT:** As a result, the Department of Homeland
3 Security will determine any affect that your conviction in this
4 case will have upon your immigration status in a separate
5 proceeding.

6 Do you understand that?

7 **MR. SINGER:** One moment, Judge. Thank you, Judge.

8 **THE COURT:** Do you understand what I just asked you,
9 Mr. Assi?

10 **THE DEFENDANT:** Yes, Your Honor.

11 **THE COURT:** I'll ask it again, so we have it clear.
12 Do you understand that your ability to enter, to remain, to
13 reside in the United States, anything of those things, is
14 subject to the laws of the United States and the regulations and
15 policies of the Department of Homeland Security?

16 **THE DEFENDANT:** Yes, Your Honor.

17 **THE COURT:** As a result, the Department of Homeland
18 Security will determine any affect that your conviction in this
19 case might have upon your immigration status in a separate
20 proceeding.

21 Do you understand that?

22 **THE DEFENDANT:** Yes, Your Honor.

23 **THE COURT:** Did you talk with your lawyer about the
24 possible consequences of your conviction on your immigration
25 status?

1 **THE DEFENDANT:** Yes, Your Honor.

2 **THE COURT:** Do you understand that no one, not your
3 lawyer, not me, can predict to a certainty the effect of a
4 conviction in this case might have on your immigration status?

5 **THE DEFENDANT:** Yes, Your Honor.

6 **THE COURT:** With knowledge and understanding of the
7 possible consequences, do you want to proceed with your guilty
8 plea?

9 **THE DEFENDANT:** Yes, I do.

10 **THE COURT:** Mr. Adler, would you please explain
11 paragraph 16 for the defendant's benefit?

12 **MR. SINGER:** Judge, before we proceed, can I just have
13 one other moment? I'm sorry.

14 **THE COURT:** Yes.

15 **MR. SINGER:** Thank you, Judge. We can proceed.

16 **THE COURT:** Mr. Adler --

17 **MR. ADLER:** Judge, the United States has a
18 treaty-based program called a prisoner transfer that is largely
19 operated out of the Office of Enforcement Operations through the
20 International Prisoner Transfer Unit.

21 It allows for certain defendants, who are citizens of
22 other countries, to apply for transfer of their jail term to
23 their home country.

24 Paragraph 16 merely says that the United States
25 Attorneys Office here in the Western District of New York will

1 not object if the defendant does take that -- make that
2 application.

3 However, it also makes clear that it's not actually up
4 to us. It is up to the Office of Enforcement Operations, as
5 well as the country of Canada as well, to decide whether or not
6 that transfer would be appropriate.

7 **THE COURT:** Do you understand that, Mr. Assi?

8 **THE DEFENDANT:** Yes, Your Honor.

9 **THE COURT:** Did you discuss the facts of your case,
10 possible defenses and the possible punishment with your lawyer?

11 **THE DEFENDANT:** Yes, Your Honor.

12 **THE COURT:** And did you tell your lawyer everything
13 that you know about your case?

14 **THE DEFENDANT:** Yes, Your Honor.

15 **THE COURT:** In paragraph four of your plea agreement,
16 you and the Government agree to certain facts regarding the
17 charge that you are planning to plead guilty to.

18 Mr. Adler, would you please summarize or read the
19 facts the Government would be prepared to prove if this case
20 were to go to trial?

21 **MR. ADLER:** Yes, Your Honor. In summary, on April 9,
22 2019, the defendant and his co-conspirator flew a helicopter
23 from Canada into United States airspace.

24 That helicopter had 49 kilograms of marijuana. The
25 helicopter flew to Beaver Island Park on Grand Island, here in

1 the Western District of New York.

2 A CBP officer -- excuse me -- observed that helicopter
3 leaving towards Canada, and subsequently found four duffel bags
4 with the marijuana contained therein vacuum concealed.

5 The defendant did later admit that he had flown that
6 helicopter.

7 **THE COURT:** Thank you, Mr. Adler.

8 Mr. Assi, do you understand what the prosecutor just
9 said?

10 **THE DEFENDANT:** Yes, Your Honor.

11 **THE COURT:** Is what he said about you, your conduct
12 and your intent true?

13 **THE DEFENDANT:** Yes, Your Honor.

14 **THE COURT:** Mr. Adler, how would the Government prove
15 those facts at trial, if there were a trial?

16 **MR. ADLER:** Judge, we would hear testimony from a CBP
17 officer, specifically the one who observed the helicopter
18 departing and subsequently located the vacuum-sealed marijuana.

19 We'd also have from a laboratory expert, who would
20 testify about the weight and the substance, namely marijuana, in
21 the vacuum-sealed bags.

22 We would present evidence of the defendant's
23 involvement in both the purchase of the helicopter and his
24 records for obtaining a helicopter license prior to the
25 April 9th, 2019, marijuana drop.

1 We would hear testimony from a RCMP officer, who
2 actually stopped the defendant at a later date in Canada. It
3 was on a suspicion of driving under the influence, and during
4 that, seized the defendant's phone.

5 We would hear testimony about the dump of that phone
6 in which the defendant had conversations with his co-conspirator
7 about smuggling marijuana into the United States, including
8 Whatsapp conversations with links to articles titled things such
9 as: Top ten successful ways people have smuggled drugs into the
10 U.S., and smugglers in Canada can easily get helicopters.

11 We'd hear testimony from representatives of the
12 Federal Aviation Administration, the FAA, and other national
13 security agencies about the review of radar data that showed
14 that -- the flight path of the defendant's helicopter that day.

15 And we would also hear testimony from a representative
16 of Nav Canada about the defendant's failure to check in with
17 required towers; failure to submit a required flight plan, and
18 turning the transponder off during the April 9th, 2019, travel.

19 We would also see surveillance footage from the
20 helipad in Canada that showed the defendant and his
21 co-conspirator preparing the helicopter for takeoff, and then
22 returning out of the helicopter on April 9th, 2019.

23 And lastly, as noted before, we would hear about the
24 defendant's admission that he had flown the helicopter that day.

25 **THE COURT:** Mr. Assi, do you understand that?

1 **THE DEFENDANT:** Yes, Your Honor.

2 **THE COURT:** Are you pleading guilty today because you
3 did the things that the plea agreement says you did and that are
4 charged in Count Four of the indictment?

5 **THE DEFENDANT:** Yes, Your Honor.

6 **THE COURT:** In your own words now, Mr. Assi, tell me
7 what it is you did that makes you believe you are guilty of
8 Count Four.

9 **THE DEFENDANT:** Can I have a minute?

10 **THE COURT:** Yes.

11 (Discussion off the record.)

12 **THE DEFENDANT:** I'm ready.

13 **THE COURT:** Go ahead.

14 **THE DEFENDANT:** I knowingly flew the helicopter with
15 marijuana -- packed with marijuana to bring it to the United
16 States.

17 **THE COURT:** I think that covers it.

18 Mr. Adler, is the Government satisfied with the
19 factual basis?

20 **MR. ADLER:** Yes, Your Honor.

21 **THE COURT:** Next regarding the sentencing guidelines,
22 in paragraph six through 13 of your agreement, there is a
23 discussion of the sentencing guidelines.

24 I understand that you and the Government have agreed
25 to a specific sentencing range in this case, and that I would

1 impose a sentence within that range if I accept the plea
2 agreement at a later date, and we'll get to that.

3 First, I need to discuss the sentencing guidelines
4 generally. The U.S. Sentencing Commission issues guidelines
5 that I must consult and take into account when determining
6 sentences.

7 Mr. Assi, if you plead guilty or are convicted after a
8 trial, I would calculate and consider the applicable sentencing
9 guidelines range and also consider upward and downward
10 departures.

11 I must consider the guidelines, but they are advisory
12 only, and that means I'm not bound to follow them when
13 determining your sentence.

14 Do you understand that?

15 **THE DEFENDANT:** Yes, Your Honor.

16 **THE COURT:** Also, when determining your sentence, I
17 will consider all of the factors in the sentencing statute.

18 Those factors include the nature and circumstances of
19 the offense; your own personal history and characteristics; the
20 need for the sentence to reflect the seriousness of the offense,
21 promote respect for the law and provide a fair punishment.

22 The need to deter others from committing crimes and to
23 protect the public from your crimes; the need to provide you
24 with educational or vocational training, medical care or other
25 correctional treatment.

1 The kinds of sentences available; any policy
2 statements issued by the Sentencing Commission; sentences given
3 to others who committed crimes similar to the one that you are
4 planning to plead guilty to, and the need to provide restitution
5 to victims, if there are any.

6 Mr. Assi, do you have any questions about those
7 statutory factors?

8 **THE DEFENDANT:** No, Your Honor.

9 **THE COURT:** Did you and your lawyer talk about how
10 those factors and the guidelines might be applied in your case?

11 **THE DEFENDANT:** Yes, Your Honor.

12 **THE COURT:** Do you understand that the conduct used to
13 compute your guidelines range will include both the conduct that
14 you plead guilty to, as well as any relevant conduct involving
15 counts that are dismissed or never charged?

16 **THE DEFENDANT:** Yes, Your Honor.

17 **THE COURT:** Do you understand that there might be
18 other conduct, including things that we're not even thinking
19 about right now, that might affect your sentencing guidelines
20 range?

21 **THE DEFENDANT:** Yes, I do.

22 **THE COURT:** If I accept your guilty plea, a
23 presentence report will be prepared before you are sentenced.

24 You and the Government will have a chance to review
25 that report; to challenge the reported facts and the guidelines

1 range calculation, and to suggest that I consider other factors
2 consistent with the plea agreement.

3 Do you understand that?

4 **THE DEFENDANT:** Yes, Your Honor.

5 **THE COURT:** Neither I nor your lawyer will be able to
6 determine the guidelines range in your case until the
7 presentence report has been prepared.

8 Do you understand that?

9 **THE DEFENDANT:** Yes, Your Honor.

10 **THE COURT:** In paragraphs six through nine, you and
11 the Government agree to sentencing guidelines calculations.

12 And in paragraph ten, you and the Government agree to
13 an understanding about a specific sentencing guidelines range.

14 Specifically, you and the Government agree that the
15 guidelines would call for a sentence of 46 to 57 months of
16 imprisonment, plus a fine of between \$20,000 and \$250,000, plus
17 a period of supervised release of two to three years.

18 Do you understand that I can accept this calculation
19 and also can reject it and find another guidelines calculation
20 on my own?

21 **THE DEFENDANT:** Yes, Your Honor.

22 **THE COURT:** Paragraph 11 below that is the Rule
23 11(c)(1)(C) plea agreement that you have with the Government.

24 In paragraph 11, you agree with the Government that
25 the Court, at the time of sentencing, should impose a sentence

1 between 33 and 41 months of imprisonment.

2 If I accept your guilty plea today, I plan not to
3 decide whether to accept or reject the plea agreement after
4 until reviewing the presentence report.

5 If at that time I reject the plea agreement and reject
6 your agreement with the Government to impose a sentence of 33 to
7 41 months of imprisonment, I must give you a chance to withdraw
8 your guilty plea.

9 Do you understand that?

10 **THE DEFENDANT:** Yes, Your Honor.

11 **THE COURT:** If I were to do that, I would give the
12 Government a chance to withdraw as well.

13 Do you understand that?

14 **THE DEFENDANT:** Yes, Your Honor.

15 **THE COURT:** If a situation were to arise that I reject
16 the plea agreement and neither you nor the Government chooses to
17 withdraw from it, in that scenario, regardless of the sentencing
18 guidelines calculation and regardless even of my own
19 calculation, I would then have the discretion to impose a
20 sentence that is more or less severe than the guidelines range,
21 as long as it's not more than the statutory maximum that we
22 discussed earlier.

23 Do you understand that?

24 **THE DEFENDANT:** Yes, Your Honor.

25 **THE COURT:** At that point, you would not be able to

1 withdraw your guilty plea based on the sentence I impose.

2 Do you understand that?

3 **THE DEFENDANT:** Yes, I do.

4 **THE COURT:** Do you understand that you and the
5 Government agree not to advocate for the application of any
6 other guideline, and not to move for any departure or recommend
7 a sentence outside the guidelines, except as set forth in the
8 agreement?

9 Do you understand that?

10 **THE DEFENDANT:** Yes, Your Honor.

11 **THE COURT:** Do you have any questions about the
12 sentence you may receive if I accept your guilty plea?

13 **THE DEFENDANT:** No, Your Honor.

14 **THE COURT:** Mr. Adler, please tell us about the
15 statute of limitation, which is covered in paragraph 14.

16 **MR. ADLER:** Yes, Your Honor. In the event that the
17 defendant's plea of guilty is withdrawn or the conviction
18 vacated, the defendant is agreeing that any charges that are
19 dismissed will automatically be restated and he will not assert
20 a statute of limitations defense for any federal criminal
21 offense, which isn't time barred as of today.

22 **THE COURT:** Do you understand that, Mr. Assi?

23 **THE DEFENDANT:** Yes, Your Honor.

24 **THE COURT:** Next, Mr. Adler, please tell us about the
25 rights the Government reserves in paragraph 17, the Government's

1 obligation in 18 and defendant's agreement in 19.

2 **MR. ADLER:** Judge, the Government has reserved the
3 right to provide the Court with all information and evidence
4 relevant to the defendant's background, involvement in the
5 offense and history.

6 To respond at sentencing to anything the defendant
7 says that is inconsistent with the Government's evidence; to
8 advocate for a specific sentence within the agreement; to modify
9 our position with respect to any sentencing recommendation if
10 something previously unknown becomes known.

11 We're also agreeing that we'll move to dismiss the
12 open count to the indictment in this action as against the
13 defendant at the time of sentencing.

14 And finally, the defendant is agreeing that any
15 financial records and information provided by the defendant to
16 the Probation office, either before or after sentencing, may be
17 disclosed to the U.S. Attorneys Office for the collection of any
18 unpaid financial obligation.

19 **THE COURT:** Do you understand all of that, Mr. Assi?

20 **THE DEFENDANT:** Yes, Your Honor.

21 **THE COURT:** By entering into this plea agreement and
22 pleading guilty, you are giving up your right to appeal your
23 conviction.

24 You are also giving up your right to collaterally
25 attack your conviction by filing a motion in this Court.

1 Do you understand that?

2 **THE DEFENDANT:** Yes, Your Honor.

3 **THE COURT:** You are also giving up your right to
4 appeal or collaterally attack your sentence by filing a motion
5 in this Court, as long as the sentence is within or less than
6 the guidelines range we discussed earlier, even based on facts
7 you may learn in the future that you think would justify a
8 lesser sentence and even if the law changes in a way that you
9 believe justifies a lesser sentence. And this is covered in
10 paragraphs 20 through 22.

11 Do you understand that?

12 **THE DEFENDANT:** Yes, Your Honor.

13 **THE COURT:** Did you discuss your right to appeal and
14 how pleading guilty affects that right with your lawyer?

15 **THE DEFENDANT:** Yes, Your Honor.

16 **THE COURT:** Based on that discussion and after
17 considering the issue, do you agree to give up your right to
18 appeal on the terms and conditions that I just stated?

19 **THE DEFENDANT:** Yes, Your Honor.

20 **THE COURT:** Is the plea agreement that you signed and
21 that we've been discussing today the complete agreement between
22 you and the Government?

23 **THE DEFENDANT:** Yes, Your Honor.

24 **THE COURT:** Did you review the entire agreement with
25 your lawyer?

1 **THE DEFENDANT:** Yes, I did.

2 **THE COURT:** Do you understand and agree with
3 everything in it?

4 **THE DEFENDANT:** Yes.

5 **THE COURT:** Did anyone make any promises,
6 representations or guarantees to you other than what's in this
7 written agreement?

8 **THE DEFENDANT:** No, Your Honor.

9 **THE COURT:** Do you understand and agree that this
10 agreement is the final one and takes the place of any prior
11 verbal or written agreement you may have had with the
12 Government?

13 **THE DEFENDANT:** Yes, Your Honor.

14 **THE COURT:** Mr. Singer, did you and Mr. Assi sign the
15 plea agreement we've been discussing?

16 **MR. SINGER:** We did, Your Honor.

17 **THE COURT:** Did you discuss with him the contents of
18 every section, subsection, paragraph and subparagraph before he
19 signed it?

20 **MR. SINGER:** I did.

21 **THE COURT:** Does the signed agreement represent the
22 entire agreement between Mr. Assi and the Government?

23 **MR. SINGER:** It does.

24 **THE COURT:** Did you review with Mr. Assi the facts of
25 the case and all discovery provided by the Government?

1 **MR. SINGER:** I did.

2 **THE COURT:** Did you discuss with him the potential
3 defenses that he might have?

4 **MR. SINGER:** Yes, Your Honor.

5 **THE COURT:** Did you and your client agree that it was
6 in his best interest to enter this plea?

7 **MR. SINGER:** We did.

8 **THE COURT:** Do you believe he is entering into this
9 plea freely and voluntarily, with full knowledge of the charge
10 and consequences of the plea?

11 **MR. SINGER:** I do.

12 **THE COURT:** Were any promises, representations or
13 guarantees, other than what's in the signed written plea
14 agreement, made to either you or Mr. Assi?

15 **MR. SINGER:** No, Your Honor.

16 **THE COURT:** If I accept the plea agreement, I will
17 impose a sentence that includes a term of imprisonment of
18 somewhere between 33 and 41 months.

19 Other than that, did you promise your client a
20 particular sentence if I accepted his guilty plea?

21 **MR. SINGER:** I did not.

22 **THE COURT:** Other than what's contained in the signed
23 plea agreement that we've been discussing, and a general
24 discussion of the sentencing guidelines range and other
25 sentencing considerations including the 33 to 41 month term of

1 imprisonment -- other than all of that, did you suggest to your
2 client a specific sentence I would impose or promise him a
3 particular sentence if I accepted his guilty plea?

4 **MR. SINGER:** No, Your Honor.

5 **THE COURT:** Is there any reason I should not accept
6 Mr. Assi's plea?

7 **MR. SINGER:** No, Your Honor.

8 **THE COURT:** Do you join in the waiver of a jury trial
9 and concur in the plea?

10 **MR. SINGER:** I do.

11 **THE COURT:** Mr. Adler, other than what's contained in
12 the signed agreement, did the Government make any promises,
13 representations or guarantees either to Mr. Assi or his counsel?

14 **MR. ADLER:** No, Your Honor.

15 **THE COURT:** Does the Government also waive its right
16 to a jury trial?

17 **MR. ADLER:** We do.

18 **THE COURT:** Mr. Assi, are you satisfied with
19 Mr. Singer and the representation he's provided to you?

20 **THE DEFENDANT:** Yes, Your Honor.

21 **THE COURT:** Did you tell him everything you know about
22 your case?

23 **THE DEFENDANT:** Yes, I did.

24 **THE COURT:** Do you believe he fully considered any
25 defense you may have to charges against you?

1 **THE DEFENDANT:** Yes, I do.

2 **THE COURT:** Do you believe he fully advised you
3 concerning this case and the consequences of this plea?

4 **THE DEFENDANT:** Yes.

5 **THE COURT:** Did you have enough time to discuss your
6 case with Mr. Singer?

7 **THE DEFENDANT:** Yes, I did.

8 **THE COURT:** Did you answer all of my questions
9 truthfully?

10 **THE DEFENDANT:** Yes, I did.

11 **THE COURT:** Have you understood everything I've said
12 and every question that you've answered?

13 **THE DEFENDANT:** Yes, Your Honor.

14 **THE COURT:** Do you believe you are competent to decide
15 to plead guilty?

16 **THE DEFENDANT:** Yes, Your Honor.

17 **THE COURT:** Is there any reason I should not accept
18 your guilty plea?

19 **THE DEFENDANT:** No.

20 **THE COURT:** Do you understand that if I accept your
21 guilty plea, the only thing remaining in your case will be
22 sentencing, which may include imprisonment?

23 **THE DEFENDANT:** Yes, Your Honor.

24 **THE COURT:** Having in mind everything we have
25 discussed so far today, including the rights you will give up

1 and all other consequences to you, do you want to plead guilty?

2 **THE DEFENDANT:** Yes, Your Honor.

3 **THE COURT:** Mr. Adler, Mr. Singer, do you both agree
4 that I've complied with Rule 11?

5 **MR. ADLER:** Yes, Your Honor.

6 **MR. SINGER:** Yes, Your Honor.

7 **THE COURT:** Mr. Assi, in Case Number 20-CR-123, how do
8 you plead to Count Four of the indictment, importation of
9 marijuana into the United States?

10 **THE DEFENDANT:** Guilty.

11 **THE COURT:** In United States versus Assi, I questioned
12 Mr. Assi and his counsel on the offer of his plea of guilty to
13 Count Four of the indictment, a felony.

14 He and his counsel advised me they conferred about the
15 offered plea of guilty, all aspects of the charge against
16 Mr. Assi and any defenses that he may have.

17 I observed Mr. Assi's intelligence, demeanor and
18 attitude while answering my questions, and I observed that
19 Mr. Assi does not appear to be under the influence of any
20 medicine, drug or other substance that might affect his actions
21 or judgment in any manner.

22 Based upon all of that, I find that Mr. Assi is fully
23 competent and capable of entering an informed plea, and that he
24 is aware of his Constitutional rights, the nature of the charge
25 and the consequences of the plea.

1 I also find that the guilty plea is knowingly,
2 voluntarily and intelligently made in light of Mr. Assi's
3 complete understanding and appreciation of the nature of the
4 charge, the consequences of the plea and his Constitutional
5 rights.

6 I further find that the plea is supported by an
7 independent factual basis containing each essential element of
8 Count Four.

9 Therefore, I accept Mr. Assi's guilty plea and I defer
10 acceptance of the plea agreement pursuant to Rule 11(c)(3)(A).
11 Mr. Assi is adjudged guilty of Count Four.

12 A written presentence report will be prepared by the
13 probation office to assist the Court.

14 Mr. Assi, you will be asked to meet with the probation
15 officer and to provide information for that report, and your
16 lawyer should attend.

17 Both of you will be able to read the report and file
18 any objections before the sentencing hearing. You will be able
19 to submit any additional information and motions that are
20 consistent with the terms of the plea agreement and the plea
21 that you just entered.

22 You and your lawyer will be able to speak on your
23 behalf at the sentencing hearing. Mr. Assi is referred to the
24 probation officer for that presentence report.

25 And the date for sentencing will be what, Ms. Kellogg?

1 **THE CLERK:** Judge, October 25th at 10:00 a.m.

2 **MR. SINGER:** Judge, we met up with Judge Vilardo
3 earlier today regarding the Gerace case. We're scheduled to
4 start on October 23rd.

5 Is there a way that we could advance this case earlier
6 in October?

7 **THE COURT:** I don't see why not. Earlier in October?

8 **MR. SINGER:** Perhaps like the 17th or -- I'm thinking
9 like a Tuesday, Wednesday or Thursday. And either that --

10 **THE COURT:** Sure.

11 **MR. SINGER:** -- the week of the 16th through 20th of
12 before that?

13 **THE COURT:** Sure. Give me a moment, Mr. Singer. I'm
14 going to open up my Outlook here.

15 **MR. SINGER:** Absolutely, Judge. Thank you.

16 **THE COURT:** All right. October 16, how is that, at
17 2:00 o'clock?

18 **MR. SINGER:** I can do that, Your Honor.

19 **THE COURT:** October 16, 2:00 p.m., Mr. Adler?

20 **MR. ADLER:** Yes, Your Honor. That works.

21 **THE COURT:** All right. So Ms. Henry is not here
22 today.

23 She'll have to get the filing deadlines pulled
24 together that correspond to October 16, because she wasn't
25 planning on that date, so just bear with us on that front.

1 **MR. SINGER:** Understood, Judge.

2 **THE COURT:** October 16, 2:00 p.m., you are all ordered
3 to appear on that date and time without any further notice or
4 order of the Court.

5 Mr. Assi is detained, pursuant to Judge Schroeder's
6 April 13, 2022, order of detention.

7 Mr. Singer, do we need to discuss the remand status
8 pending sentencing?

9 **MR. SINGER:** I don't believe so, Judge. He has an
10 immigration detainer as well, so --

11 **THE COURT:** Mr. Assi remains remanded to the custody
12 of the U.S. Marshals.

13 Mr. Adler, anything further from the Government?

14 **MR. ADLER:** No, Your Honor.

15 **THE COURT:** Anything further from Mr. Singer?

16 **MR. SINGER:** No, Judge.

17 **THE COURT:** Very good. Have a good weekend,
18 everybody.

19 **MR. ADLER:** You too, Judge.

20

21 (Proceedings concluded at 1:41 p.m.)

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2 In accordance with 28, U.S.C., 753(b), I certify that these
3 original notes are a true and correct record of proceedings in
4 the United States District Court for the Western District of
5 New York before the Honorable John L. Sinatra, Jr.

6
7
8
9
10 s/ Bonnie S. Weber
Signature

December 26, 2023
Date

11
12 **BONNIE S. WEBER, RPR**

13 Official Court Reporter
14 United States District Court
15 Western District of New York
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